

HIPAA&TRICARE

May 2003, No. 7

N e w s l e t t e r

Health Insurance Portability and Accountability Act



MHS and TRICARE Meet Testing Deadline of April 16, 2003

The HIPAA Transactions and Code Sets Final Rule, which established standard data content and formats for submitting electronic claims and other

the 270/271 eligibility transaction, which include the Composite Health Care System (CHCS), Enterprise-wide Referral and Authorization System (EWRAS), and Claims Processing System II (CPS II), are in testing with DEERS at this time.

The Managed Care Support Contractors (MCSCs) are in various testing stages as well. While all MCSCs have begun their internal testing phase, most testing with outside providers will take place in the next few months. Approximate testing dates and schedules can be found on the TMA/HIPAA website on the "[Transactions and Code Sets](#)" page.

The TMA/HIPAA Program Office is confident that the transactions and code sets (TCS) implementation is on target. The HIPAA TCS Project Officer is in constant contact with all system points of contacts (POCs) in order to resolve any issues that may arise. All systems are progressing on schedule and are involved in testing at this time. ■

Disclosure of Protected Health Information and the Military Mission

The cornerstone of HIPAA Privacy is the protection of health information. The implementation of the rule standards cannot compromise the provision of quality healthcare or the military mission. Quality healthcare is a goal the Military Health System (MHS) is committed to and we continue to meet that challenge. How does the MHS interpret the 'military mission' requirement?

administrative health transactions, originally mandated compliance by October 16, 2002. However, on December 27, 2001, President Bush signed HR3323 [also known as the Administrative Simplification Compliance Act (ASCA)], which gave HIPAA covered entities a one year extension by allowing them to submit a compliance plan to the Department of Health and Human Services (HHS) by October 15, 2002. TRICARE and the Military Health System (MHS) submitted compliance plans and have until October 16, 2003 to be compliant. However, the ASCA required that transactions testing would begin no later than April 16, 2003.

All of the MHS systems that are converting to HIPAA compliant transactions and code sets are currently in some level of testing. Direct data entry applications such as the Government Inquiry of DEERS (GIQD) and Defense Online Enrollment System (DOES) have been upgraded to include HIPAA compliant data elements. The GIQD is currently in testing with implementation expected this summer. Testing for the DOES has been completed and will be ready for implementation by the end of May. Transactions such as the X12 270/271, which allow providers and health plans the ability to inquire the Defense Enrollment Eligibility Reporting System (DEERS) electronically about eligibility for care, are progressing on schedule. The MHS systems that will utilize

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DoD 6025.18-R, "[DoD Health Information Privacy Regulation](#)" dated January 2003 and the DoD Health Information Privacy Program Federal Register Notice, 68 Fed Reg 17357 (April 9, 2003) delineate the MHS interpretation. Below are some common questions we have received concerning the 'military mission'.

- Is a patient's authorization required to release health information related to a military commander's determination about the execution of his/her military mission?

No. DoD Regulation 6025.18-R, "DoD Health Information Privacy Regulation", January 2003 Section C7.11.1.1. states that "a covered entity (including a covered entity not part of or affiliated with the Department of Defense) may use and disclose the protected health information (PHI) of individuals who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission."

- What 'activities' qualify under this stipulation?

Some of the purposes for which the PHI may be used or disclosed outlined in the Federal Register include those needed when determining the member's fitness for duty, determining the member's fitness to perform any particular mission, and to report on casualties in any military operation or activity in accordance with applicable military regulations or procedures. The PHI that is released to a command authority is on a "need to know" basis. They can only be provided information that is necessary to assess the active duty member's ability to carry out a specific duty.

- Who qualifies as an 'appropriate military command authority'?

The DoD Health Information Privacy Program Federal Register Notice published April 9, 2003 explains that appropriate military command authorities include all commanders who exercise authority over an individual who is a member of the Armed Forces, or other person designated by such a Commander to receive PHI in order to carry out an activity under the authority of the Commander. This does not mean that any command authority can access a member of the military's health information just

because they are in an authority position. The commanding officer requesting a member's PHI, must be in the individual's chain of command and only the minimum necessary information should be released in order to accomplish the purpose for which the request is made.

- What MTF policies and procedures should be established?
 1. Establish an approved roster of commanders and other persons who may access PHI on the commander's behalf.
 2. Develop screening criteria for requests that will ensure only the minimum amount of information necessary is released. For example, there may be cases where a clinical summary is needed rather than the entire medical record.
 3. Establish policy designating who is authorized to release PHI.
 4. Ensure personnel are trained on what information or combination of information may be considered PHI.
- Does the MTF have to account for these disclosures?

The MHS is required to account for disclosures made to command authorities. If the member of the Armed Forces voluntarily gives his health information to a command authority, this is not an accountable disclosure and therefore the MHS is not required to account for it.

It is important that the MHS workforce is both consistent and knowledgeable concerning privacy issues in order to successfully carry out the mission of protecting our beneficiaries' health information. Please refer to the DoD Health Privacy Regulation and Federal Register notice if you are uncertain about specific instances regarding uses and disclosures of PHI. You should also utilize your legal counsel, MTF Privacy Officers as well as your Service Representatives to ensure that HIPAA Privacy is never compromised. ■